

SCANNED

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED MASON CONTRACTORS, LLC,	:	CIVIL ACTION NO.
Plaintiff,	:	
v.	:	
GILBANE BUILDING COMPANY and THE TRUSTEES OF DEERFIELD ACADEMY,	:	
Defendants.	:	

NOVEMBER 2007

11:53

U.S. DISTRICT COURT
DISTRICT OF MASS.

FILED
CLERK'S OFFICE

COMPLAINT

I. PARTIES

1. The Plaintiff, United Mason Contractors, LLC ("United"), is a limited liability corporation organized and existing under the laws of the State of Connecticut, with a principal place of business in Hartford, Connecticut.

2. The Defendant, Gilbane Building Company ("Gilbane"), is a corporation organized and existing under the laws of the State of Rhode Island, with a principal place of business in Providence, Rhode Island.

3. The Defendant, The Trustees of Deerfield Academy ("Deerfield"), is a charitable corporation organized and existing under the laws of the Commonwealth of Massachusetts with a

principal place of business in Deerfield, Massachusetts.

II. JURISDICTION

1. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1332 because the parties reside in different states and the amount in controversy is in excess of \$75,000.00.

2. Pursuant to 28 U.S.C. § 1391, venue is appropriate in the District of Massachusetts because a substantial part of the events or omissions giving rise to the Plaintiff's claim occurred in Massachusetts.

III. STATEMENT OF THE CLAIMS

FIRST COUNT (As to Gilbane)

1. Gilbane entered into a contract with Deerfield for the construction of a project known as "Deerfield Academy Science, Math & Technology Center" in Deerfield, Massachusetts (the "project").

2. United entered into a Trade Contractor Agreement (the "subcontract") with Gilbane to perform certain masonry work at the project for the lump sum contract price of \$3,432,603.00.

3. The subcontract incorporated, by reference, the project

drawings and specifications, and United based its price on the information contained in these documents.

4. Subsequent to the execution of the subcontract, the type of brick and joints set forth in the project specifications were changed. This constituted a significant change in the scope of United's subcontract.

5. As a result of this change in scope, United experienced increased costs because the new brick and joints required additional labor hours to install than the originally specified brick and joints.

6. Gilbane directed United to perform the work in accordance with the revised specifications, and United performed this work in expectation of being paid for its additional costs.

7. Unfortunately, Gilbane has failed to pay the sum of \$1,243,753.97 due to United for this additional work.

8. In addition, despite the fact that the project was substantially completed on or about January 8, 2007, United is still owed approximately \$597,231.00 in retainage/contract balance, which Gilbane has wrongfully failed and refused to pay.

9. Gilbane has breached the subcontract by failing to pay

the sums due and owing to United for its work on the project.

10. As of the date of this Complaint, United has suffered damages in the principal amount of \$1,840,984.97.

SECOND COUNT (As to Deerfield)

1-10. Paragraphs 1 through 10 of the First Count are hereby incorporated herein as paragraphs 1 through 10 of this Second Count as if fully set forth herein.

11. As of the date of this Complaint, Deerfield has received labor, materials and equipment, provided by United to the project, with a reasonable value of \$1,840,984.97 for which Deerfield has not made any payment.

12. Based upon the foregoing, Deerfield has been unjustly enriched in the amount of \$1,840,984.97, which amount should be paid to United.

IV. PRAAYER FOR RELIEF

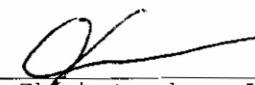
WHEREFORE, the Plaintiff requests the following relief:

1. Compensatory damages;
2. Interest;
3. Costs; and

4. Any other legal or equitable relief deemed appropriate by the Court.

THE PLAINTIFF,
UNITED MASON CONTRACTORS, LLC

By:


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